


BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2000-351-C - ORDER NO. 2000-891  
NOVEMBER 3, 2000

IN RE: Application of IPVoice Communications, Inc. ) ORDER   
for a Certificate of Public Convenience and ) APPROVING  
Necessity to Provide Resold and Facilities- ) APPLICATION FOR  
Based Interexchange and Local Exchange ) LOCAL AND LONG  
Telecommunications Services within the State ) DISTANCE AUTHORITY  
of South Carolina. )

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of IPVoice Communications, Inc. ("IPVoice" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold and facilities-based interexchange and local exchange telecommunications service within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 and §58-9-520 (Supp. 1999) and the Regulations and Orders of the Public Service Commission of South Carolina.

By letter, the Commission's Executive Director instructed IPVoice to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. IPVoice complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on August 31, 2000. Thereafter, on September 8, 2000, Counsel for SCTC filed with the Commission a Stipulation in which IPVoice stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until IPVoice provided written notice of its intent prior to the date of the intended service. IPVoice also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. IPVoice agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to IPVoice provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on October 18, 2000, at 2:30 p.m., in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided. IPVoice was not represented by counsel. IPVoice presented the testimony of Harry R. Bowman, Executive Vice President, Operations. Adelaide D. Kline, Staff Counsel, represented the Commission Staff. William P. Blume, Audit Manager II, and James M. McDaniel, Chief of Telecommunications, testified on behalf of the Commission Staff.

Mr. Bowman testified IPVoice expects to initially resell the facilities of the existing local exchange carriers or underlying carriers that presently serve South

Carolina. The record reveals that IPVoice will primarily resell the facilities and services of BellSouth. IPVoice will also use unbundled network elements and services purchased from BellSouth and other incumbent local exchange providers, where applicable, to provide service through IPVoice's facilities. The record also reveals that when IPVoice installs facilities in South Carolina, it will probably use the following configuration of equipment: voice, high speed data and internet access services through a combination of the latest technology switching and transport media comprised of the Lucent Technology 5 ESS Generic 13 switch module, ADSL/SDSL transport and Internet service equipment and the latest Optical multiplexer DAC's configurations. The switching system consists of a central processing and control complex capable of interconnection as a peer to the incumbent as well as competitive local exchange companies. The hub portion of the switch will interconnect with the public switched network on Signaling System 7 ("SS7") or Feature Group D ("FGD") facilities. The system's remote module capability will allow properties to be served in a manner that provides the exchange of appropriate signaling, control and calling/caller information to the network in accordance with network standards and specifications. These services will be delivered over a combination of delivery mechanisms through incumbent local carriers' unbundled loop network, both copper and fiber and transport networks, as well as via IPVoice constructed facilities. IPVoice proposes to offer a full array of local exchange and interexchange services to both business and residential customers to include 1+ and 101XXXX outbound dialing, 800/888 toll-free inbound dialing, and data services. Local exchange services will include switched local exchange services, including basic service, trunks, carrier access, and any

other switched local services that currently exist or will exist in the future, non-switched local services (e.g. private line), Centrex and/or centrex/like services, digital subscriber line (DSL), ISDN, and other capacity services. For interexchange services IPVoice intends to utilize Star Telecom, RSL, MCI WorldCom, UUNET and ICG as its underlying carriers.

Mr. Bowman indicated that IPVoice has installed Gateways in major cities such as New York City, Miami, Los Angeles, Atlanta, Dallas, Phoenix, Chicago and London. He further stated that IPVoice's business plan calls for the Company to have facilities in South Carolina within the next two years as it sets up its facilities in approximately eighty cities in the United States. He stated that IPVoice's Gateway system allows customers to go from a public switched telephone network or underlying carrier's line on to the Internet. The Gateway switches are interconnected to each other via an internet backbone. He said IPVoice is not currently collocating in central offices.

As to IPVoice's marketing plans, Mr. Bowman stated the Company intends to market its services through its own employees and through direct campaigns in newspapers and periodicals. He testified that IPVoice does not intend to do any telemarketing in South Carolina and that his Company is aware of the Commission's marketing guidelines. The Company had obtained local and long distance authority in approximately twenty-two states at the time of the hearing before this Commission and is in the process of applying for authority in all forty-eight contiguous states. Mr. Bowman stated the Company has not yet made a decision about offering prepaid calling card services in South Carolina. He said that IPVoice would comply with the Commission's

\$5,000 bond requirement should it decide to offer the prepaid calling card in this state. He further stated that the prepaid long distance section will be removed from the tariff in the event the Company decides not to offer those services. The Company has not yet negotiated an interconnection agreement in South Carolina as it intends to initially offer only resold long distance services in South Carolina. IPVoice is directed to file an interconnection agreement with the Commission immediately after it is signed.

According to Mr. Bowman's testimony, IPVoice will provide a toll-free telephone number for customer service that is available from 8:00 a.m. until 5:00 p.m. Monday through Friday. On weekends, an answering machine will be available with pager service available. In addition, the Company's name, address and toll-free telephone number will appear on the customer's monthly bill. Mr. Bowman testified that IPVoice plans to offer bills on the Internet in the very near future. The record reveals that Michael Scott, Vice President of Marketing and Sales, will be the Company's customer service contact person.

The record reveals that the management of IPVoice consists of the following persons: Barbara S. Will (Director, President and Chief Operating Officer), Anthony K. Welch (Director and Senior Vice President), James K. Howson (Chairman and Chief Executive Officer), Brian Auchey (Acting Chief Financial Officer), Russell Watson (Director), and Mr. Bowman. According to the record, the management team collectively has a significant number of years and experience in the telecommunications industry. Mr. Bowman was employed with AT&T Communications from 1961 until 1995 when he retired. He joined IPVoice as its Executive Vice President after spending four years in

retirement. Ms. Will has over twenty years of experience in all areas of telecommunications, both domestic and international. Prior to joining IPVoice, she served in a senior capacity with MCI WorldCom from 1984 until 1997.

According to the testimony, as of the date of the hearing IPVoice had not provided intrastate telecommunications services within the State of South Carolina. IPVoice reviewed all of the proposed changes and revisions to the Company's tariff that were presented by the Commission Staff. The Company has agreed to work with the Commission Staff to accommodate Staff's proposed changes before the Company files its final tariffs with the Commission.

Blume testified as to his findings of the Audit Department's review of IPVoice's financial statements that were a part of the Company's Application. Blume reviewed financial statements that were dated as of December 31, 1999 and June 30, 2000. According to Blume, the Company's financial position had improved substantially in the June 30, 2000 financial statements. The Company had improved its cash position and had been able to obtain working capital. Blume's review of the June 2000 financial statements showed that the company had a strong cash position with cash making up about 58% of its assets. Blume testified that the improvement in its financial condition came from the Company's being able to obtain some \$2.2 M as a result of a preferred stock issuance. Additionally, Blume testified the Company's current ratio, which is an indication of the Company's ability to meet its current liabilities with current assets, is a very strong 7.00. He stated further that there are enough current assets to meet the current liabilities. Mr.

Bowman stated that the Company's financial contact person would be Barbara Will, IPVoice's President, Brian Auchey, the acting Chief Financial Officer, or himself.

McDaniel presented testimony to the Commission on the Utilities Department's findings with respect to IPVoice's Application for a Certificate of Public Convenience and Necessity. McDaniel's testimony includes several recommended changes to the Company's local and long distance tariffs. Additionally, McDaniel testified that IPVoice seeks a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976), which requires all company records to be maintained within the State of South Carolina. IPVoice seeks to maintain its books and records at its Company headquarters in Scottsdale, Arizona. The Company also requests a waiver of 26 S.C. Code Ann. Regs. 103-631 (1976 and Supp. 1999), which requires the publication and distribution of local telephone directories and the provision of directory listings. IPVoice will contract with the incumbent local exchange carriers (and/or their directory publishing affiliates) to provide its customers with directory listings as well as to undertake the distribution of directories. In addition, IPVoice requests this Commission's permission to maintain its financial records in conformance with Generally Accepted Accounting Principles (GAAP) rather than the Uniform System of Accounts (USOA). Further, IPVoice requests waiver of any reporting requirements which are not applicable to competitive providers.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

### **FINDINGS OF FACT**

1. IPVoice is organized as a corporation under the laws of the State of Delaware and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.
2. IPVoice wishes to provide local exchange services and interexchange services within the State of South Carolina.
3. The Commission finds that IPVoice possesses the technical, financial, and managerial resources sufficient to provide the service requested.
4. The Commission finds that IPVoice's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1999).
5. The Commission finds that IPVoice will support universally available telephone service at affordable rates.
6. The Commission finds that IPVoice will provide services which will meet the service standards of the Commission.
7. The Commission finds that the provision of local exchange service by IPVoice "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1999).

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to IPVoice to provide competitive resold and facilities-based intrastate local exchange services only to



customers located in the non-rural areas of South Carolina. The terms of the Stipulation between IPVoice and the SCTC are approved, and adopted as a portion of this Order. Any proposal to provide local exchange service to a customer in a rural incumbent LEC's service area is not included in the instant grant of authority. Further, the Company is granted authority to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. With regard to the interexchange service offerings of IPVoice, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. IPVoice shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. IPVoice shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE

Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 6, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, IPVoice shall file its revised long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The Company shall file its revised local tariff prior to commencement of operations within South Carolina. The revised tariffs shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. IPVoice is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. IPVoice shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If IPVoice changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, IPVoice shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

9. IPVoice shall file annual surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). The title of the forms which the Company shall utilize to file annual surveillance reports with the Commission is "Annual Information on South Carolina Operations For Interexchange Companies and AOS".

10. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs IPVoice to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an

information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, IPVoice, shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

IPVoice shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the "Authorized Utility Representative Information" form which can be located at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms) to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. IPVoice shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all

Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

13. IPVoice shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, IPVoice shall keep financial records on an intrastate basis for South Carolina to comply with the annual and gross receipts filings. The "Annual Report for Competitive Local Exchange Carriers" form can be located at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form shall be utilized by the Company to file annual financial information with the Commission.

14. By its Application, IPVoice requested waivers from Commission requirements (1) of publishing a directory and (2) of maintaining its books and records within the State of South Carolina, (3) of any reporting requirements which are not applicable to competitive providers, and (4) permission to maintain its financial records in accordance with GAAP. The Commission finds the reasoning behind IPVoice's requests for waivers of publishing a directory and maintaining its records required under the Commission's rules be kept within the State of South Carolina reasonable and hereby grants the waivers of these regulations. IPVoice is given permission to maintain its financial records in conformance with GAAP. The Commission, however, denies IPVoice's request for a waiver of any reporting requirements not applicable to competitive providers. Such a request is too broad and lacks specificity. The Commission will not grant a blanket waiver. IPVoice is directed to comply with all Rules and

Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

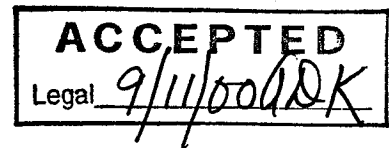
  
\_\_\_\_\_  
Chairman

ATTEST:

  
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Executive Director

(SEAL)

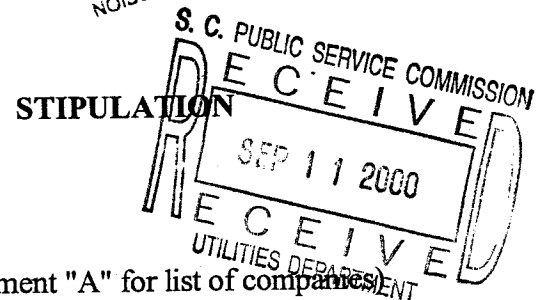
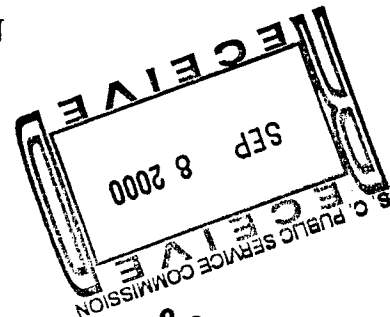
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BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 2000-351-C

Re: Application of IPVoice Communications, Inc. )  
for a Certificate of Public Convenience and )  
Necessity to Provide Resold and Facilities-based )  
Local Exchange and Interexchange Telecommu- )  
nications Services in the State of South Carolina )



The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and IPVoice Communications, Inc. ("IPVoice") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose IPVoice's Application. SCTC and IPVoice stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to IPVoice, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. IPVoice stipulates and agrees that any Certificate which may be granted will authorize IPVoice to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. IPVoice stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. IPVoice stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and

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SERVICE: OK FB

until IPVoice provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, IPVoice acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. IPVoice stipulates and agrees that, if IPVoice gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then IPVoice will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. IPVoice acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and IPVoice, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

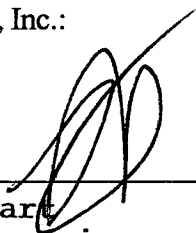


8. IPVoice agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. IPVoice hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

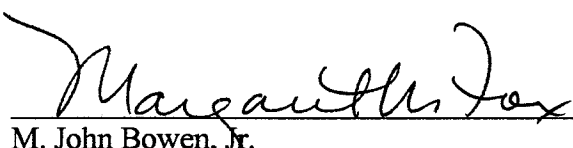
AGREED AND STIPULATED to this 7<sup>th</sup> day of September, 2000.

IPVoice Communications, Inc.:

  
\_\_\_\_\_  
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Attorney for IPVoice  
Communications, Inc.

South Carolina Telephone Coalition:

  
\_\_\_\_\_  
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Attorneys for the South Carolina Telephone  
Coalition

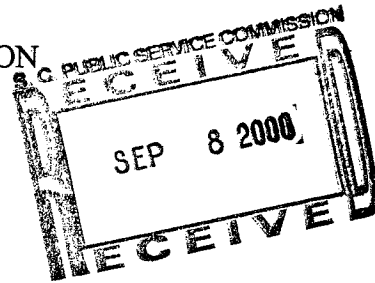
## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

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Docket No. 2000-351-C

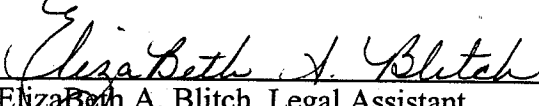


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Local Exchange and Interexchange Telecommu- )  
nications Services in the State of South Carolina )  
\_\_\_\_\_ )

**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Lance J. M. Steinhart, Esquire  
6455 East Johns Crossing, Suite 285  
Duluth, Georgia 300097.

  
ElizaBeth A. Blitch, Legal Assistant  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

September 8, 2000

Columbia, South Carolina